THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.22884 OF 2005

Dated: 25.10.2005

Between

K.N.V. Srinivas, S/o. Subbarao, R/o. Tadimalla Village, Nidadavolu Mandal, West Godavari District and another.

...PETITIONER

AND

The District Registrar-cum-Election Commissioner, Eluru, West Godavari District and others.

...RESPONDENTS

ORDER:

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Cooperation.

The petitioners seek a writ of mandamus declaring the inaction of the Election Officer of Sri Rajagopalaswamy Primary Agricultural Cooperative Society, Tadimalla village, Nidadavolu Mandal, West Godavari District, in not holding the election of the third respondent to the said PACS as illegal and arbitrary.

It is stated that as per the election schedule to the said PACs the receipt of nominations is

on 18.10.2005, the scrutiny of nominations is on 19.10.2005, the withdrawal of nominations is on 20.10.2005 and the date of the poll is on 26.10.2005. It is further stated that the petitioners have filed their nominations for the 6th ward and 11th ward respectively. In ward no.1 there are two candidates, ward no.3 there are two candidates, ward no.10 there are two candidates, ward no.11 there are two candidates, ward no.6 there are two candidates, ward no.8 there are two candidates, ward no.4 there are two candidates and in ward no.5 there are two candidates.

The second respondent on 23.10.2005 declared the nominees of the above wards after issuing the symbols for election as unanimous and when once the election officer published the valid nominations on 19.10.2005 he cannot on his own remove the valid nominations and conducting the elections for the third respondent society on 26.10.2005 is arbitrary and illegal.

Learned Government Pleader appearing for the respondents submits that the petitioners are the contestants of 6th and 11th wards respectively and there ought to be no objections for declaring the nominations in respect of the other wards. Therefore, the petitioners cannot question the action of the election authority in not conducting the elections to the other wards.

I am unable to accept the said contention. Once the scrutiny of the nominations takes place and after the final date of withdrawal of the nominations, whether any candidate is interested in contesting or not, it is the bounden duty of the Election Officer to conduct elections freely, fairly and with purity but they cannot meddle in any way by not conducting elections where there are more than two nominations for any ward.

Having regard to the facts and circumstances of the case, the respondents are directed to conduct the elections, taking into consideration the valid nomination papers as per the final date of publication of valid nominations on 19.10.2005, to the Rajagopalaswamy PACS, Tadimalla Village, Nidadavolu Mandal, West Godavari District, on the date of poll on 26.10.2005.

The writ petition is accordingly allowed.

V. ESWARAIAH, J

October 25, 2005

DSK

Note: ISSUE CC IN TWO DAYS